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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of migrants, François Crépeau

Labour exploitation of migrants

Summary

The present report is submitted in accordance with Human Rights Council resolution 17/12. It provides an overview of the activities carried out by the Special Rapporteur, including some reflections on the 2013 High-level Dialogue on International Migration and Development. The thematic part of the report focuses on labour exploitation of migrants. It covers some of the most common manifestations of labour exploitation, groups of migrants who are specifically at risk of such exploitation, and access to an effective remedy. The report is based on observations made during the Special Rapporteur's country visits, communications he has received from individuals and civil society organizations in the course of his mandate, as well as desk research.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 17/12. It briefly outlines the activities of the Special Rapporteur on the human rights of migrants from 1 June 2013 to 31 March 2014. The thematic section is dedicated to labour exploitation of migrants.

II. Activities carried out by the Special Rapporteur

A. Participation in conferences and consultations

2. On 11 June 2013, in Strasbourg, the Special Rapporteur was the general rapporteur during the launch by the European Union (EU) Agency for Fundamental Rights and the European Court of Human Rights of a Handbook on European Court of Human Rights case law on asylum, borders and migration.

3. On 20-21 June 2013, the Special Rapporteur attended an expert meeting on global migration governance, organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Geneva.

4. On 3 September 2013, the Special Rapporteur attended a policy meeting entitled "Smart Borders? European and Global Logics of Border Surveillance in the Context of Privacy" at the Centre for European Policy Studies in Brussels.

5. On 4 September 2013, the Special Rapporteur attended a high-level meeting entitled "Migration and human rights: towards the 2013 High-level Dialogue on International Migration and Development", organized by OHCHR in Geneva.

6. On 3-4 October 2013, the Special Rapporteur attended the High-level Dialogue on International Migration and Development at the General Assembly in New York.

7. On 18 November 2013, the Special Rapporteur attended an expert meeting on human rights at international borders, organized by OHCHR in Geneva.

8. On 3 December 2013, the Special Rapporteur participated in an exchange of views with the European Committee against Racism and Intolerance in Strasbourg.

9. On 4-5 December 2013, the Special Rapporteur attended an expert workshop entitled "Strengthening the Migration-Development Nexus through Improved Policy and Institutional Coherence," organized by the Organization for Economic Cooperation and Development in Paris.

10. On 14 January 2014, the Special Rapporteur attended a seminar on the rights of migrant domestic workers' in Beirut.

11. On 20-21 February 2014, the Special Rapporteur attended the 12th annual coordination meeting on international migration in New York.

12. On 4 March 2014, the Special Rapporteur was the keynote speaker at the Human Rights Council's annual mainstreaming panel, which focused on protection and promotion of the human rights of migrants.

B. The High-level Dialogue on International Migration and Development

13. The second High-level Dialogue on International Migration and Development took place in New York on 3-4 October 2013. The Special Rapporteur attended the meeting, and intervened in round tables 2 (human rights) and 3 (partnerships and cooperation), as well as in numerous side events and parallel civil society meetings. Additionally, the Special Rapporteur focused his 2013 report to the General Assembly (A/68/283) on global migration governance and its impact on the human rights of migrants, with a view to being a useful advocacy document in the lead-up to the High-level Dialogue. The Special Rapporteur was pleased to see human rights discussed throughout the High-level Dialogue and not just at the human rights round table. This was in stark contrast to discussions he has observed in other forums outside the United Nations, and shows how beneficial bringing discussions on migration inside the United Nations can be.

14. While the High-level Dialogue took a significant step forward in ensuring that the human rights of migrants was part of all the discussions at the High-level Dialogue, and in the adoption of a Declaration, the Special Rapporteur regrets the absence of a plan of action or specific follow-up activities, without which the follow-up to the High-level Dialogue seems rather unclear. He urges all stakeholders to actively implement the Declaration, including in the discussions concerning the Post-2015 Development Agenda.

C. Country visits

15. In November 2013, the Special Rapporteur visited Qatar. Despite having sent several other requests over the past year, the Special Rapporteur was not able to secure an invitation to visit any other countries in 2013. He is grateful to Qatar for extending an invitation to him, and hopes to be able to undertake more country visits in 2014. In this respect, he has sent requests to the following countries: (a) Sri Lanka (accepted, visit will take place 19-26 May 2014); (b) Angola (accepted, dates to be agreed); (c) Côte d'Ivoire (accepted, dates to be agreed); (d) Nepal (accepted, dates to be agreed); (e) Bangladesh; (f) Ghana; (g) Malaysia; (h) Mauritania; (i) Myanmar; (j) the Republic of Korea; (k) Thailand; and (l) Viet Nam.

III. Labour exploitation of migrants

A. Introduction

16. People migrate for a variety of reasons. Push factors include war, conflict, natural disasters, persecution, poverty and unemployment. A major pull factor is the need for migrant labour in destination States. Irregular migration is frequently a result of a lack of regular migration channels, particularly for low-skilled workers, despite an often unrecognized need for their labour in countries of destination and the resulting vast underground labour markets that attract them. Many people see migration as the only way to improve their social and economic situation, and sometimes they see no other option but to migrate or remain irregularly. Migrants, and particularly irregular migrants or migrants with a precarious residence status, are often willing to do the "dirty, difficult and dangerous" jobs that nationals will not, at the exploitative wages that unscrupulous employers will offer.

17. Tensions between migrants and the local population have in many places been fuelled by the debate about national identity, and in some cases also by the economic crisis. Migrants are sometimes accused, including in the public debate, of "stealing" jobs by

accepting lower wages and poor working conditions. However, States seem to invest very few resources in trying to reduce the informal sector and sanction employers who profit from the exploitative conditions of work to boost their competitiveness.

18. Generally, migrants are at heightened risk of exploitation and abuse in the workplace, due to (a) deceptive recruitment practices, both by employers and intermediaries; (b) frequent lack of social support systems; (c) unfamiliarity with the local culture, language, their rights at work and national labour and migration laws in the country of employment; (d) limited or denied access to legal and administrative systems; (e) dependence on the job and employer due to migration-related debt, legal status, or employers restricting their freedom to leave the workplace; and (f) reliance by family members on remittances sent back home by the migrant. These factors are amplified by the discrimination and xenophobia that migrants are increasingly facing everywhere.

19. Factors which further contribute to exploitation of migrants in the workplace include (a) pressure to lower the cost of labour in highly competitive sectors; (b) the absence of effective implementation of labour and occupational health and safety standards; and (c) frequent lack of unionization. This concerns sectors where migrants are frequently concentrated, such as agriculture, construction, hospitality, care-giving, domestic work and informal work (such as street vendors). Migrants routinely work long hours, including overtime for which they are often not paid, and sometimes do not get their breaks or leave entitlements. They frequently report having been misinformed about labour conditions and benefits, and left without access to medical care and consular protection. A key contributing factor of their exploitation is their general fear of being identified, arrested, detained and deported for real or imagined reasons, and their consequent reluctance to risk complaining, protesting or publicly mobilizing, preferring very often to "move on".

20. The United Nations General Assembly, in its resolution 68/179, has requested all States "to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers' labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association". In the Declaration adopted by the General Assembly during the High-level Dialogue on International Migration and Development in October 2013, States agreed to (a) promote and protect effectively the human rights and fundamental freedoms of all migrants, regardless of their migration status; (b) protect women migrant workers in all sectors, including those involved in domestic work; (c) respect and promote international labour standards and the rights of migrants in their workplaces; and (d) cooperate on labour mobility programmes.

21. The Special Rapporteur has met with migrant workers during his country visits. He also continuously receives information from migrants themselves, civil society organizations and other sources on their behalf. This report is based on information collected by the Special Rapporteur during country visits, information received from migrants and other sources, and desk review. It also draws on the work of his two predecessors, including their findings during country visits and thematic reports.

22. Recruitment practices and their impact on the human rights of migrants is something the Special Rapporteur believes warrants a more thorough study, and he plans to look into this more in detail in one of his future thematic reports. Recruitment practices are therefore not covered in detail in this report.

B. Overview of the legal framework

23. The Universal Declaration of Human Rights and the core international human rights treaties provide a broad framework for non-discrimination and protection of the human

rights of all human beings, including migrants, both regular and irregular, and their rights at work. Article 4 of the Declaration prohibits slavery and servitude. Article 23 provides the right to work, to free choice of employment, to just and favourable conditions of work, to equal pay for equal work, to just and favourable remuneration, and to the right to form and join trade unions. Article 24 provides the right to rest and leisure, including reasonable limitations of working hours and periodic holidays with pay.

24. Articles 6 to 10 of the International Covenant on Economic, Social and Cultural Rights recognize the rights of everyone to (a) work which they freely choose or accept; (b) enjoy just and favourable conditions of work, including equal remuneration for work of equal value; (c) form and join trade unions; (d) social security, including social insurance; (e) the special protection from economic and social exploitation of children and young persons.

25. Article 8 of the International Covenant on Civil and Political Rights prohibits slavery, servitude and forced labour. Article 22 provides the right to freedom of association. Article 26 provides that all persons are equal before the law and are entitled without any discrimination to the equal protection of the law.

26. Article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women enshrines equal rights of men and women in the field of employment, including (a) equal remuneration, including benefits, and to equal treatment in respect of work of equal value; (b) the right to protection of health and to safety in working conditions; and (c) maternity protection.

27. Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination provides the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, including in the enjoyment of civil rights and economic, social and cultural rights. Article 5(e)(i) provides the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, and to just and favourable remuneration.

28. Article 32 of the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and hazardous and harmful work, and requires States to specify a minimum age for admission to employment. The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography prohibits the sale of children, including for the purpose of engagement of the child in forced labour.

29. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families sets out minimum standards for migrant workers and members of their family, irrespective of their migratory status, in line with the principles of equality and non-discrimination, and with the provisions of other United Nations treaties, noting States' responsibilities to respect, protect and fulfil the human rights for all human beings. Article 7 highlights the principle of equality and non-discrimination with respect to human rights. Article 11 sets out the prohibition of slavery, servitude and forced labour. Article 25 provides that migrant workers shall enjoy treatment not less favourable than that which applies to nationals in respect of remuneration and other conditions of work, including overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship. Article 25 also calls for equality between migrant workers and nationals in other terms of employment according to national law and practice, including minimum age of employment. Paragraph 2 of the same article states that private employment contracts may not derogate from the principle of equality of treatment. Article 26 recognizes the right of migrant workers to participate in trade unions and any other lawful associations and to seek the aid and assistance of such unions and associations. Part IV of the Convention provides additional rights for regular migrants. This

includes (a) the right to form associations and trade unions (article 40); (b) access to housing and social and health services (article 43); and (c) protection against dismissal and the right to unemployment benefits (article 54).

30. International labour standards adopted by the International Labour Conference of the International Labour Organization (ILO) apply to migrant workers unless otherwise stated. The fundamental principles and rights at work set out in the eight Fundamental ILO Conventions apply to all migrant workers, irrespective of their migration status. The 1998 ILO Declaration on Fundamental Principles and Rights at Work and its follow-up requires all ILO member States to promote and realize the principles concerning the fundamental rights enshrined in these Conventions. A number of other ILO standards of general application and those containing specific provisions on migrant workers in the areas of employment, labour inspection, social security, protection of wages, occupational safety and health, as well as in such sectors as agriculture, construction, hotels and restaurants, and domestic work, are of particular importance to migrant workers in an irregular situation. In formulating national laws and policies concerning labour migration and the protection of migrant workers in an irregular situation, States are also guided by (a) the ILO Migration for Employment (Revised) Convention, 1949 (No. 97); (b) the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); and (c) the accompanying Recommendations Nos. 86 and 151. The ILO Multilateral Framework on Labour Migration, approved for publication and dissemination by ILO's Governing Body in 2006 and which is based on international human rights and labour standards, provides useful guidance to governments, social partners and other stakeholders in the formulation and implementation of national labour migration policies.

31. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, requires States parties to prevent and criminalize trafficking, and to protect victims. The definition of trafficking includes the recruitment, transportation or receipt of persons by means of the threat or use of force or other forms of coercion, fraud or deception, to achieve the consent of a person having control over another person, for the purpose of exploitation, including forced labour, slavery or servitude.

C. Manifestations of labour exploitation

32. While many migrants find decent work, enabling them to improve their social and economic situation, others end up as victims of labour exploitation. The following is a collection of some of the worst practices migrants face in different regions of the world, irrespective of their migration status.

1. Discrimination

33. Migrants report discrimination by their employers, on many grounds such as nationality, race and sex, with regard to, inter alia, remuneration, excessive overtime, opportunities for promotion, access to health care and unfair dismissals. Migrants are sometimes submitted to mandatory HIV testing, which is prohibited under the ILO HIV and AIDS recommendation, 2010 (No. 200). Migrants, both regular and irregular, are often employed under precarious and discriminatory conditions, with temporary contracts that do not entitle them to access social security services. They sometimes suffer verbal, physical and sexual abuse in the workplace.

34. One case brought to the Special Rapporteur's attention concerned alleged arbitrary arrest and detention, and lack of access to food, water and adequate housing in the context of a natural disaster. In this situation, migrants were reportedly excluded from the distribution of food and other essential items, and denied access to emergency shelters,

which were open to citizens only. Another case brought to the Special Rapporteur's attention concerned a migrant who was subjected to a mandatory medical test that revealed an old tuberculosis scar in his lung. He was subsequently deported, with no right to appeal the decision, despite the fact that he did not have an active tuberculosis infection.

2. Lack of employment contract and contract substitution

35. When migrants do not have a contract, it is extremely difficult for them to claim their rights and obtain compensation in relation to, inter alia, working conditions, wages and social security, work accidents or illness. However, recruitment agencies and employers routinely fail to provide migrants with a written contract. Some migrants receive a contract in a language which they do not understand, with no translation provided. Others find that their contract is not respected by their employer, including in relation to the wages and working conditions. Upon arrival in the country of destination, the contract they signed in their home country is simply substituted by another one, frequently with a lower salary and a different job description. For instance, one migrant the Special Rapporteur met was told she would work as a cook in a restaurant, but ended up as a domestic worker in a private household, with a much lower salary. Others were promised jobs as electricians or plumbers, but ended up as labourers. As these migrants have often paid a lot of money for recruitment fees, and many have taken out loans to pay these costs, they usually have no choice but to accept contract substitutions.

3. Withheld or unfair remuneration

36. Frequent human rights violations experienced by migrants in relation to payment of wages include irregularities with regard to pay such as non-payment or excessive delays in the payment of wages. Migrants also experience receiving unfair wages, including unequal pay for the same work or work of equal value, based on discriminatory criteria such as nationality. In particular, irregular migrants are frequently paid less than the minimum wage. Some migrants report being denied paid holidays, others are not paid for overtime, and some do not get paid sick leave. Migrants often receive their salaries in cash, which makes it difficult to prove when they have not been paid, or when unjustified deductions have been made from their salaries. One case brought to the Special Rapporteur's attention concerned a group of migrant farm workers who had not been paid for several months. When they requested their wages to be paid, they were shot at, and many sustained injuries. They were then allegedly left stranded in the greenhouse slum where they were living, trying to recover from their injuries in an unhygienic environment, with no Government support.

4. Confiscation of documents

37. Article 21 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provides that States parties should ensure that employers and recruiters do not confiscate or destroy travel or identity documents belonging to migrant workers. However, the Special Rapporteur has met with many migrants who have had their passports or other identity documents confiscated by their employers. Even when the law strictly prohibits the confiscation of documents, the Special Rapporteur has seen this happen systematically, particularly in respect of workers considered "low-skilled", including domestic workers and construction workers. Employers who have paid recruitment fees frequently see the migrants working for them as an economic investment, and therefore try to prevent them from leaving, inter alia by confiscating their passports. The confiscation of passports is routinely used as a tool to trap migrants in exploitative jobs, forcing them to perform work they would not agree to otherwise. This practice reinforces isolation and dependence and restricts the freedom of

movement of the migrant out of the place of work and residence, as well as out of the country.

5. Work and residence permit

38. In several countries practising diverse forms of "sponsorship" programmes, the legality of the stay of a migrant depends on the employment relationship. If this relationship ends, the migrants automatically lose their residence permits and may become subject to deportation. Additionally, if the employer is responsible for renewing work permits, migrants who are still working may end up in an irregular situation if the sponsor neglects or refuses to renew their permit, inter alia due to the cost or cumbersome procedures involved. Migrants whose residence permit depends on the work contract are thus heavily dependent on their employer, and vulnerable to abuse. Those who are indebted due to recruitment fees are rendered even more vulnerable, as they will feel pressured to pay off their debt before they can return home. Another problem experienced by many migrants is that they are tricked by the recruitment agency and are offered a tourist visa rather than a work visa. The Special Rapporteur has met with several such migrants, who used recruitment agencies to migrate, and were given three-month tourist visas which did not give them the right to work, and they thus ended up working without a work permit. He has also received information on legislation which gives the competent authorities the power to order a migrant with a work permit to leave the country if the person contravened any condition stated in his or her permit, with no legal process and no way for the migrant to challenge this decision.

39. When migrants are not allowed to change employer, which is routinely the case under "sponsorship" programmes, they are in a very vulnerable situation in which very few dare to lodge complaints of abuse or unreasonable working conditions, fearing the non-extension of their contracts and subsequent loss of a residence permit. Sponsorship systems which require that migrants obtain an "exit permit" from their employer in order to leave the country can also be abused by employers who prevent them from leaving the country for no good reason. For instance, the Special Rapporteur met with a migrant who was not allowed to travel home for his daughter's funeral.

6. Occupational safety and health

40. Lack of familiarity with local law and language difficulties frequently prevent migrants from being aware of specific hazards in their work. Occupational safety and health violations are a big concern, as migrants are often employed in high-risk hazardous sectors, including agriculture, construction, mining and different types of informal work. The Special Rapporteur has been made aware of high incidences of accidents and deaths among migrants in the construction sector. Health and safety programmes are sometimes under-resourced and not prioritized, and training sessions regarding occupational safety are routinely given in a language the migrants do not understand. Furthermore, migrants often lack familiarity with equipment, and undertake heavy physical labour for long hours, with poor access to health care. Migrants also frequently end up doing a different job than stated in the original contract. They then sometimes end up performing dangerous work, including operating heavy machinery, with little or no instructions or training, and without any safety equipment. Unreasonably long working hours and poor conditions render them even more vulnerable to accidents. Employers may also refuse or neglect to take the appropriate insurance coverage for their employees.

41. Migrants frequently find access to compensation for work accidents difficult. Migrants who suffer industrial accidents are sometimes not compensated, either by their employer, recruitment agency or insurance company. They often do not have information about their rights, and how to obtain compensation. Irregular migrants face additional

hurdles: they may not be entitled to compensation for work accidents, or fear detection by Government authorities by claiming compensation, or have difficulties proving the existence of a work relationship.

7. Restrictions on the right to medical care

42. Some migrants find access to health services difficult, inter alia due to the distance and lack of transportation. If they are sick, they may still be required to work. Some cannot access subsidized health care because their employers do not provide them with identity cards. The Special Rapporteur has received information indicating that, as a result of the economic crisis, many migrants have lost their jobs, and thus their residency status, and as a consequence are denied access to the public health-care system to which they have been contributing.

8. Indecent living conditions

43. Many migrants live in housing which lacks basic infrastructure and services including sanitation, electricity, potable water and adequate health-care services. The Special Rapporteur has seen shocking living conditions of migrant workers he encountered. The migrants, some with irregular migration status, lived in abhorrent conditions, in overcrowded houses, without proper sanitation. The Special Rapporteur learned that the wages received were often not sufficient to maintain an adequate standard of living. Some migrants are promised housing by their employers, but find out upon arrival that no housing accommodation has been made available.

9. Difficult access to social security benefits

44. The Special Rapporteur has received information indicating that many migrants are not provided with social security benefits. Migrants frequently risk losing entitlement to social security benefits in their home country due to their absence, and at the same time they may encounter restrictive conditions under the social security system of their country of employment. Portability of social security for migrants who wish to return to their home country is also problematic. Social security is particularly difficult to access for irregular migrants. While irregular migrants are often not able to participate in contributory schemes, they still contribute to financing social protection schemes by paying indirect taxes. Also, temporary migrants have difficult access to social security, due to long residency requirements.

10. Restrictions on the freedom of association

45. The right to organize and engage in collective bargaining is essential for migrants to express their needs and defend their rights, in particular through trade unions and labour organizations. However, some countries reserve the right to form and join associations and trade unions for their own nationals. The Special Rapporteur believes this is sometimes linked to the authorities' fear of migrants becoming more powerful and demanding their rights. In some countries, irregular migrants are prohibited from joining trade unions. The Special Rapporteur has been made aware of a case of denying legal status to a migrant trade union, due to the fact that its membership included irregular migrants. He has also been made aware of migrant trade union leaders who have been arrested and deported, or denied entry to a country despite having valid travel documents.

11. Trafficking and forced labour

46. The Special Rapporteur has been made aware of cases of migrants who are recruited by means of deception, for the purpose of economic and sexual exploitation. When the work is exacted (including through deception or false promises on the type of work, and

confiscation of passports) from a person under the menace of a penalty (such as the threat of deportation for leaving one's employer), this can amount to forced labour and in some cases servitude. Furthermore, debt, usually due to recruitment loans taken out with a very high interest rate, is sometimes used to coerce migrants to accept work to which they did not originally agree, and thus constitutes a component of forced labour.

47. Migrants are often deceived by their recruiters about their salaries, working hours, days off and the nature of the work, and experience exploitative working conditions and non-payment of salaries. Such deception and exploitation can amount to trafficking for labour exploitation. Information available to the Special Rapporteur indicates that recruitment agents are sometimes involved in trafficking of migrants for forced labour. They deliberately deceive prospective migrants about the conditions of work and withhold their passports, knowing they will be exploited.

12. Termination of employment

48. Migrants often experience that their work contract does not make the terms and conditions for the termination of the employment relationship clear. They can thus be denied the freedom to terminate employment and find another employer. Additionally, where an exit permit from the employer is required, migrants may be denied the right to leave the country. Migrants are also often victims of unfair dismissal. For instance, if their work is no longer required, despite the fact that they have a contract, their employer may tell them there is no work for them, resulting in the migrants either being left without a job, or sent back to their country of origin. In countries where the residence permit is linked to the employer, migrants may end up in an irregular situation if they choose to stay in the country, looking for a new job. The law may also not recognize the validity of a contract with an irregular migrant, who may be left without protection.

D. Groups of migrants specifically at risk of exploitation

1. Temporary migrant workers

49. Many temporary migrant workers are filling permanent labour needs, while others perform seasonal work, including in agriculture or tourism, which may amount to "circular" migration when the migrant returns year after year. Temporary migration is frequently discussed in international forums, such as the Global Forum on Migration and Development, as something uniquely positive. However, temporary migration programmes can have very negative consequences in terms of human rights, including access to economic and social rights, the right to family life and protection from exploitation. Generally, such programmes do not give migrants the right to free choice of employment, which makes them become dependent on their employer and vulnerable to abuse. Additionally, temporary migrants usually do not have access to welfare benefits given to long-term residents, and may be excluded from wage protection and social security programmes, including health insurance and employment injury coverage. As a result, temporary migrants often live in substandard housing or makeshift accommodation. States often restrict the rights of temporary migrant workers to family reunification and vocational training. Temporary migration programmes are inflexible to the needs of migrant workers, and give unequal power to the employer. As temporary migrant workers spend a short time in a specific area, they may find access to legal services and the judicial system difficult, inter alia due to lack of knowledge of the local law, language barriers, cultural isolation, their precarious migration status, as well as restricted right to organize. In particular, farm work, which is frequently seasonal and performed by temporary/circular migrant workers, is in some countries excluded from labour laws. This makes it very difficult for migrant farm workers to enforce their rights or improve their working conditions.

2. Migrant domestic workers

50. Migrant domestic workers, the majority of whom are women and girls, are extremely vulnerable to violence and abuse. ILO Convention 189 on decent work for domestic workers clearly recognizes domestic work as work. However, in many countries, domestic workers are not recognized as "workers", and thus not protected by labour law. As a consequence, they have no labour rights, no annual leave, no established working hours and no minimum salary. They are sometimes also excluded from rights relating to social security laws. Some countries rely on domestic work to be regulated by the work contract only, rather than by law. However, it is difficult for migrant domestic workers to claim their rights when their work is frequently considered informal, and not regulated by law. If the employer has diplomatic immunity, this renders the domestic worker even more vulnerable, due to the possible scope of the employer's immunity from criminal prosecution and civil claims.

51. In its General Comment No. 1 (2011) on migrant domestic workers, the Committee on Migrant Workers identified practices that increase the risk of abuse and exploitation in the workplace for migrant domestic workers, including "dependence on the job and employer because of migration-related debt, legal status, practices of employers restricting their freedom to leave the workplace, the simple fact that the migrants' workplace may also be their only shelter". These risks and vulnerabilities are further aggravated for migrant domestic workers who are in an irregular situation, as they often risk deportation if they contact State authorities to seek protection from an abusive employer. The Special Rapporteur has met with domestic workers who had run away from their employers after severe physical, psychological and sexual abuse. They also reported poor working and living conditions, including excessive working hours, sometimes without meal or rest breaks, no weekly days off, not being given sufficient food, not being paid for several months, and having their passports confiscated. They also suffer threats and intimidation, including that their employer will not renew their visa, have them deported, make false allegations to the police about them stealing from the household, or being thrown out into the streets. One case brought to the Special Rapporteur's attention concerned a migrant domestic worker who was repeatedly physically and sexually abused by her employer. She ran away, ended up in a detention centre and later on, while in a psychiatric hospital, committed suicide.

52. Migrant domestic workers, especially live-in workers, are particularly vulnerable to abuse as their workplaces are in private households, behind closed doors and out of the public eye. They are thus physically isolated, which makes it difficult for them to take collective action. They are frequently unregistered, and form part of the informal labour market. The frequent abuse against migrant domestic workers is further aggregated by the lack of labour inspections in private households. The right to change employer is instrumental in facilitating the escape of migrant domestic workers from exploitative and abusive situations. It is important for abused domestic workers to receive support and assistance and be able to file a complaint against their employer and seek work with another employer without facing the risk of being deported. A good practice brought to the Special Rapporteur's attention concerns a visa system in which visas are granted to the individual domestic workers and entitle them to basic labour rights under national employment legislation, including the right to pursue legal remedies against their employers. This has enabled migrant domestic workers to escape abuse and exploitation, in part because the visas are not tied to their employers. Consequently, domestic migrant workers who wish to leave their employers due to abuse, exploitation or other forms of ill-treatment are not treated as irregular migrants facing the risk of arrest and imprisonment, but rather as victims.

3. Migrant women

53. Migrant women risk being the victims of multiple discrimination, both as women and as migrants. Migrant women tend t. be employed in the shadow economy and in less skilled work than men, even though some are better qualified. They are generally more dependent on their employers, which puts them at greater risk of abuse and exploitation. Some countries set a minimum age for women to migrate, or ban low-skilled women from migrating, inter alia for domestic work. While this may be done with the intention of protecting women from abuse, this practice is not only discriminatory, it often leads women to resort to irregular migration, rendering them more vulnerable to abuse, which includes precarious working conditions, low pay and exposure to violence and forced labour. The Special Rapporteur has received information concerning requirements in some countries that women must obtain consent from their husband or legal guardian to migrate, and that they must indicate who will take care of their children while they are abroad. Such requirements do not seem to be in place for men.

54. Migrant women also face discrimination due to pregnancy. Some countries subject women migrants to mandatory testing, and women who are pregnant risk losing their residence and work permits. The Special Rapporteur has received allegations concerning proposed regulations to deport pregnant migrant workers, which may in turn compel these women to seek unsafe abortions as their only option to stay employed, exposing them to serious health risks, including risk of death. Migrant women are also at risk of gender-based violence, particularly those who work as domestic workers. The Special Rapporteur has met with several women domestic workers who were victims of sexual harassment and abuse. Those who become pregnant as a result of rape seek to have unsafe abortions or abandon their babies in order to avoid being stigmatized upon their return to their home countries, where they may already have a husband and children. Migrant women who are sponsored by their husband, and whose residence status depends on him, are vulnerable to domestic violence. During one of his visits, the Special Rapporteur met with a migrant woman who ran away from an abusive husband, and he then proceeded to cancel her residence permit. Some women who migrate to work as domestic workers are deceived by their recruiters and end up in forced prostitution, amounting to trafficking for the purpose of sexual exploitation.

4. Migrant children

55. A high proportion of child labourers in agriculture, domestic and different types of informal work, as well as in commercial sexual exploitation, are migrants. Frequent restrictions in access to educational services often leave migrant children with no choice but to work. Child labour in the informal economy includes petty trading, begging, portering, etc. Protection against exploitation is frequently lacking due to insufficient regulation and monitoring, as activities in the informal economy are not always categorized as work. During one of his country visits, the Special Rapporteur was informed of seasonal movements of children to neighbouring countries for begging and other forms of forced labour. He heard about children as young as seven leaving their country on short-term migration to beg, collect cans and pick tomatoes, and perform other types of agricultural work abroad. Migrant children who are domestic workers are at particular risk of abuse due to their young age and isolation from their families, and dependence on their employers. Migrant children who work as domestic workers or who live and work in factories and sweatshops are sometimes confined to the premises of the employer where they face further physical, psychological and sexual abuse.

56. Migrant children are more vulnerable to abuse and injuries than adult migrants. The frequent lack of distinction between adult and child migrants renders children vulnerable to rights violations, including in relation to the minimum age for admission to employment

and the worst forms of child labour. Information available to the Special Rapporteur indicates that recruitment agencies sometimes recruit children and provide them with forged passports, falsely indicating that they are above 18 years of age. A case brought to the Special Rapporteur's attention concerned a migrant domestic worker reportedly aged 17, although her passport stated that she was older. She was charged with murder for the death of a baby in her care, and was later executed by beheading. Migrant children, particularly those who are unaccompanied, are also vulnerable to trafficking. While boys are most vulnerable to becoming victims of trafficking for labour exploitation and forced labour, girls are most vulnerable to trafficking for sexual exploitation and sexual slavery. The lack of community relations and parental oversight of unaccompanied migrant children renders them more vulnerable to abuse and exploitation than local child labourers. They suffer from more maltreatment in the workplace and are generally worse off in terms of working conditions compared to local children. Migrant child labourers are among the least visible and least politically empowered of workers, meaning that employers have no incentive to provide them with proper working and living conditions. This lack of legal protection also generally translates to lower levels of health and education for migrant children.

5. Migrants in an irregular situation

57. The fact that a migrant is in an irregular situation does not deprive him/her of human rights protection. The human rights treaties, including the eight ILO Fundamental Conventions, apply to everyone, without discrimination. However, irregular migrants are frequently victims of labour exploitation. Due to their precarious situation, they often accept working for lower wages than regular migrants and nationals, and in dirty, difficult and dangerous conditions. Additionally, they regularly have difficult access to social services and health care, and live in constant fear of being detected, arrested, detained and deported, if they seek to improve their working conditions. Fear of drawing attention to their immigration status thus prevents many irregular migrants from organizing and from seeking protection from the authorities for their rights as workers, including in case of non-payment or late payment of their salaries, or implementation of health and safety regulations. Irregular migrants are also vulnerable to abuse and corruption. For instance, the Special Rapporteur has met with irregular migrants who reported having been detained and subsequently released when they paid the police a bribe.

58. States have the power to refuse to give irregular migrants access to their labour market. But as long as such migrants are in fact working, they are entitled to equal conditions of work, based on the principle of equality and non-discrimination. The Special Rapporteur has received information concerning legislation which prohibits irregular migrants from entering into business transactions with the State, including renewing business permits, and irregular immigrants have thus been forced to close their businesses. The same law provides that courts shall not enforce contracts in which one of the parties is known to be in an irregular situation, and as a result, employers have refused to pay their employees, claiming that they have no right to be paid under the new law. As provided by the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (article 25.3), employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of any irregularity in the stay or employment of migrant workers. The Special Rapporteur is of the opinion that, rather than seeking to apprehend irregular migrants who are working, States should spend more efforts targeting the employers who take advantage of, and often exploit, irregular migrants: this would have the beneficial effect of reducing the underground labour markets that attract irregular migration. The Special Rapporteur further believes that regularization is the most effective measure to address the extreme vulnerability of many irregular migrants, particularly for migrants who have lived in a

country for a long time, or who came as infants, or who are working and thus contributing to the society in which they live.

E. Access to an effective remedy

59. The Universal Declaration of Human Rights recognizes that everyone has the right to an effective remedy from the competent national tribunals for acts violating the fundamental rights granted to him or her. More specifically, article 83 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families provides that migrants shall have access to an effective remedy, by competent judicial, administrative or legislative authorities, when their rights are violated. However, lack of knowledge of the local language and legislation, including in relation to their human and labour rights and how to report violations of those rights, means that migrants too frequently do not have access to an effective remedy. Furthermore, migrants who report abuse by their employer may fear retaliation. Irregular migrants always fear detection. Seeking remedy after return (either voluntary or deportation) to their country of origin is often very difficult. Migrants who live in employer-owned or operated migrant labour camps, which are frequently located in rural areas, and who are dependent on their employers for transportation and access to community facilities and public services, find access to legal services and community resources in general difficult. The Special Rapporteur has received allegations concerning lack of legislation and implementation of existing legislation which enables the practice of denying or not allowing certain human rights defenders, in particular legal advocates and other community service providers, meaningful access to migrant farmworker in labour camps, including by allegedly harassing and threatening these human rights advocates.

1. Complaint mechanisms and access to courts

60. Complaint mechanisms and courts are often not easily accessible for migrants, especially due to the frequent lack of interpreters and legal aid. Migrants are frequently not aware of the relevant legislation and different procedures in place, and even if they are, they may be reluctant to file complaints against their employers. This is due to various factors: their residence permits may be linked to their employment relationship, they may lack identity documents, they may have recruitment-related debt in their home country which they desperately need to pay, or there may be a lack of protection mechanisms or knowledge about such mechanisms for migrants who file cases against their employers. Migrants who do not have a written work contract often cannot prove a work relationship. The Special Rapporteur has received information indicating that irregular migrants who have sought advice from lawyers have been told that the lawyers may be forced to disclose their clients' immigration status, further hampering their access to the courts. Witnesses (usually co-workers) are often not willing to testify, as they may fear losing their job, or they may themselves be in an irregular situation and fear detection. Due to all these difficulties, migrants will in many cases choose to find a new job rather than confront an abusive employer: "moving on" often appears to be the best survival strategy.

61. Migrant domestic workers, in particular, are frequently very isolated. Those who never leave their employers' households often cannot communicate with others. When they can, they often do not know how to complain, or who to complain to, and they may fear reprisals, including false accusations of theft, losing their job, indefinite detention and being left on the streets. Reprisals are often a problem when trying to reveal cases of labour exploitation of migrants. As an example, the Special Rapporteur has received information concerning criminal charges of broadcasting false statements against a human rights defender who did research for a report which detailed serious human rights violations by a

company with regard to working conditions and labour rights of migrants employed by that company.

2. Labour inspections

62. Labour inspections are an important tool to combat human rights violations committed against migrants in the workplace and can, if undertaken properly, prevent such violations from occurring. However, the criminalization of irregular entry and stay and the emphasis on immigration control has in some countries led to cooperation between labour inspection and immigration enforcement and/or imposition of immigration control duties on labour inspectors. The result impedes effective protection of all migrants under labour law, and also intimidates migrants from denouncing abusive working conditions and from cooperating with labour authorities. A migrant who is either irregular and fears detection and deportation, or who has a precarious legal status and fears losing his/her job and subsequently becoming irregular, will be very reluctant to report workplace violations to labour inspectors, unless there is a "firewall" in place which prevents labour inspectors from communicating information about potentially irregular migrants to immigration enforcement. This "firewall" should apply not only to labour inspectors, but also to other public servants migrants may be in touch with, such as the police, social workers, school personnel and health care professionals, as well as courts, tribunals and national human rights institutions. Migrants should be able to report abuse without fear of repercussions regarding their migration status.

63. In relation to domestic workers, labour inspections are particularly challenging, as private households are usually off-limits for the inspectors and domestic workers are highly vulnerable to abuse and exploitation. The Special Rapporteur believes labour inspections inside private households, as well as regular meetings between domestic workers and a labour inspector outside the household, would be important to combat the too-frequent abuse of domestic workers: privacy is as important for the domestic worker as it is important for her employer.

3. Employer sanctions

64. Employers who hire migrants have unique social control over their employees. In particular, irregular migrants are easily exploited by their employers, who may require their workers to undertake strenuous physical labour for long hours, and frequently pay them far below the minimum wages, or not at all, knowing full well that their employees will avoid complaining. This control is further exacerbated by migrants' frequent lack of community and family support and limited knowledge of the local language and legislation. When the employer provides the accommodation and food for the migrants, this increases the dependence on their employer. Unscrupulous employers sometimes retaliate against migrants who voice employment-related grievances, such as the non-payment of their wages, including by denouncing them to migration and other authorities, or fabricating criminal accusations against them.

65. Employers who violate the human rights of migrants rarely face consequences. The Special Rapporteur has met with numerous migrants, particularly irregular migrants working in informal sectors, who were being exploited by unscrupulous employers. Said employers appeared to enjoy total impunity. Fighting labour exploitation of migrants by sanctioning exploitative employers often seems to be a yet-unfulfilled State obligation, although it would contribute greatly in reducing the pull factor of irregular migration and thereby diminish the power of exploitative smugglers over migrants, by reducing the attractiveness of irregular employment and thus reduce the size of the underground labour markets that are a key pull factor of irregular migration. The EU's Employers Sanctions Directive is a promising initiative in this respect, intended to facilitate access to justice by

victims of abusive or exploitative labour conditions, including irregular migrants, but it has yet to be effectively and extensively implemented.

IV. Conclusions and recommendations

A. Conclusions

66. **Migrants, especially those with a precarious residence status, are vulnerable to labour exploitation. Certain categories of migrants are more vulnerable to such exploitation, including temporary migrant workers, migrant domestic workers, women, children and migrants in an irregular situation. Access to an effective remedy for rights violations may be very difficult or impossible.**

67. **Unrecognized labour needs in destination States, especially for low-skilled labour, constitute a major pull factor for irregular migration. Opening up more regular migration channels for workers considered "low-skilled", thus recognizing the labour needs of destination States, and sanctioning exploitative employers, would reduce irregular migration and limit the power of smugglers' organizations, thus contributing to the better respect, protection and fulfilment of the human rights of migrants.**

68. **A large part of the labour exploitation that migrants suffer is linked to recruitment agencies, which extort high recruitment fees, despite this being prohibited by the ILO Private Employment Agencies Convention, and deceive prospective migrants on their prospective salaries, job descriptions, working hours, overtime, days off, lodging and social protection. International standards on business and human rights provide that private actors must as a minimum respect the human rights of their workers. The private sector, including recruitment agencies and employers, play an important role in labour exploitation of migrants, and must therefore be part of the solution. Governments must effectively regulate the recruitment industry.**

69. **A comprehensive national migration policy needs detailed elaboration and effective implementation in order to combat labour exploitation of migrants. ILO's Multilateral Framework on Labour Migration provides useful guidance in this respect. A comprehensive migration policy could mitigate tensions between migrants and local communities that result from poor migration management.**

B. Recommendations

70. **Establish coherent and comprehensive gender-sensitive national migration policies addressing all stages of the migration process, coordinated across government and developed in widespread consultation with national human rights institutions, the private sector, employers' and workers' organizations, civil society and migrants themselves, and with the support of international organizations. Ministries responsible for, inter alia, health, education, employment, children and social policies should be fully involved in the elaboration of such migration policies. The policies should have a human rights-based approach, and should include ethical recruitment practices, effective implementation of labour standards for all migrant workers, meeting labour needs at all skills levels, and more effective matching of labour supply and demand.**

71. **Address the pull factors for irregular migration, namely the unrecognized need for migrant labour in destination States, including for low-skilled workers, and the**

corresponding need to open up a greater number of regular migration channels and effectively sanction exploitative employers of irregular migrants, which would lead to fewer instances of irregular migration, and less exploitation of irregular migrants.

72. Improve the recruitment process, including through the effective regulation of private recruitment agencies and sub-agents/brokers, and abolish the practice of recruitment fees for migrants, as these fees should be covered by the employer.

73. Ensure that policymakers and the public are continually educated about the human and labour rights of migrants.

74. Improve data collection and indicators in all areas relevant to labour migration in order to make informed policy decisions.

75. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

76. Ratify the ILO Fundamental Conventions and the migrant workers Conventions (C.97 and C.143), as well as C.181 concerning private employment agencies, and C.189 concerning decent work for domestic workers.

77. Encourage and monitor the implementation by business enterprises of the Guiding Principles on Business and Human Rights. The principles state that business enterprises are required to (a) avoid causing, or contributing to, adverse human rights impacts through their own activities, and to address such impacts when they occur; and (b) seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations.

78. Embassies and consulates of countries of origin should play an active role in protecting the rights of their nationals, such as by providing counselling, shelter, travel documents and return tickets, and assisting in legal proceedings. Additionally, trainings should be organized systematically for migrants in their home country prior to their departure, and include information on their rights and duties in the country of destination, information on complaint mechanisms, and provide basic language training.

1. Manifestations of labour exploitation

79. Take all necessary measures to combat discrimination and violence against migrant workers, including sexual violence, beatings, threats, psychological abuse and denial of access to medical care, by adopting and implementing legislation prohibiting such acts, effectively investigating cases of discrimination and violence, prosecuting and punishing those responsible, as well as providing reparations to victims.

80. Ensure that all workers receive a contract in a language they understand, and that they are protected against contract substitution. Ensure that the contract signed by the worker in their home country is respected in the destination country, and that the work they perform is in accordance with their contract. Bilateral agreements between countries of origin and destination should strengthen human rights protection, and include a model contract which sets out the rights of the worker, including working conditions, and salary. Use certified recruitment agencies, and ensure that they do not work with non-registered sub-agencies.

81. Combat wage theft and ensure, by law, that all migrant workers receive their salaries in a bank account, and that they are paid their full salary, including paid holidays, sick leave and overtime compensation when applicable, on time, and assist with recovery of wages when this is not complied with.

82. Make sure that passports and other identity documents are not confiscated, and make the withholding of such documents an offence, with appropriate penalties, and effectively prosecute violations.

83. Guarantee that all migrants have the right to accept and to leave employment voluntarily, without the threat of a penalty. Migrants who choose to leave an abusive employer should not lose their residence permit. Instead, they should receive adequate support, for example by providing them with a long enough grace period in order to find a new job. Allowing migrants to change employers when they wish would render them far less vulnerable to exploitation.

84. Provide adequate resources to relevant authorities for occupational safety and health. Ensure improved health and safety conditions in places that employ migrants, including through proper training and use of safety equipment, and ensure that injured migrant workers receive proper medical treatment and compensation.

85. Ensure that medical care is available to all migrant workers, including irregular and temporary migrants, and that it is not dependent on the production of identity documents or residency permits.

86. Guarantee that all migrant workers have an adequate standard of living, including adequate food, water, clothing and housing.

87. Grant migrants, including irregular and temporary migrants, access to social security benefits on the basis of equal treatment with nationals. States should consider entering into bilateral, regional or multilateral agreements to provide social security coverage and benefits to migrant workers in this respect.

88. Recognize the right of all migrants, including those in an irregular situation, to form and join organizations, including trade unions, and recognize these unions.

89. Undertake all the necessary measures to combat trafficking for labour exploitation and all forms of forced labour by migrants, and provide adequate support and assistance to the victims. Provide victims of trafficking with a residence permit that allows them to work and of a sufficient duration to allow them to rebuild their lives and consider their options.

90. Refrain from using sponsorship systems that make immigration status conditional on one given employer, as this creates a precarious status, restricts freedom of movement, increases vulnerability to exploitation and abuse, and leads to forced labour.

91. Ensure that migrants are free to terminate their employment contract, without fear of retribution, and find another employer or leave the country when they so wish. Protect migrants against unfair dismissals, and refrain from tying visas to the employer, so that migrants can find a new job in case their employment is terminated.

2. Groups of migrants specifically at risk of exploitation

92. Provide temporary migrant workers who are filling permanent labour needs with long-term residence permits, and provide permanent residence permits to circular migrants after a certain period. Ensure that temporary migrant workers have access to economic and social rights and protection from exploitation.

93. Extend labour protection in national law to domestic workers, including by formulating provisions related to minimum wages, payment for overtime, working hours, working conditions, days of rest, annual leave, freedom of association and social security protection, including with respect to maternity, pension rights and health insurance, as well as effective recourse and remedies. Ensure that migrant

domestic workers have a written contract, in a language they can understand, stating their specific duties, working hours, remuneration, days of rest, and other conditions of work. Model contracts should be adopted for this purpose. Persons who abuse domestic workers should be prevented from hiring more domestic workers in the future. Labour inspections should be undertaken also in employers' households, and regular meetings should take place between domestic workers and a labour inspector outside the household, in order to combat abuse. Ensure that migrant domestic workers have access to complaint mechanisms and legal assistance.

94. Repeal sex-specific bans and discriminatory restrictions on women's migration on the basis of age, marital status, pregnancy or maternity status. Prohibit by law mandatory pregnancy testing and deportation of women migrants who are pregnant. Take all the necessary measures to combat gender-based violence.

95. Continue to work towards the elimination of child labour for migrant children. Enhance government oversight in industries where there are large numbers of migrant child labourers working in hazardous conditions, such as in domestic work and agriculture. Ensure that labour inspectors are trained and knowledgeable about child labour. Ensure that migrant children have access to education on the basis of equal treatment with nationals. Ensure that children of migrants are registered upon birth, regardless of the migration status of the parents.

96. Combat abuse against irregular migrants, and implement sanctions against employers who exploit them. Countries of destination should establish regular migration channels based on the demand and recognized labour needs. They should consider regularization processes in order to avoid, or resolve, situations in which migrants are in, or at risk at becoming, in an irregular situation. They should also refrain from systematic detention of irregular migrants, and rather rely on non-custodial alternative measures, in line with the Report of the Special Rapporteur on the human rights of migrants of 2 April 2012 (A/HRC/20/24).

97. Monitor employment practices in sectors often dominated by migrant workers, such as the textile industry, construction, agriculture, hospitality, care-giving and domestic work, in order to ensure that migrant workers enjoy conditions of work equal to those of nationals.

98. Countries of origin should provide prospective migrants with information on regular migration channels, on the risks associated with irregular migration and on recourses available to them in case of abuse and exploitation.

3. Access to an effective remedy for human rights violations

99. Ensure that all migrant victims of abuse and exploitation have access to effective remedies, including the possibility of pursuing compensation claims, regardless of their residence status, without fear of retribution. Migrants should be provided with easy access to effective mechanisms for bringing complaints about violations of their rights, including a free phone number they can call to report cases in their own language. National human rights institutions have an important role to play in this respect, and consulates and embassies should also assist their nationals. Complaint mechanisms should be streamlined so that migrants can register their complaints with one Government office. All complaints should be promptly investigated, regardless of the residence status of the migrant.

100. Ensure that migrants, including those in an irregular situation, can access human rights institutions, courts and tribunals, without fear of being deported. Legal aid and interpreters should be provided as required. Courts should effectively apply the international human rights law and international labour law in providing

appropriate redress. Migrants who have filed cases against abusive employers should be allowed to remain in the country, and be given necessary assistance to take part in the trial against their employer and obtain justice. They should be provided with temporary immigration status that allows them to live in dignity until the case is resolved, including shelter – not detention – and food when needed.

101. **Strengthen labour inspection services, with respect to monitoring, as well as receiving, investigating and addressing complaints. Labour inspectors should be accompanied by interpreters in languages spoken by the migrants. Labour inspectors should be instructed not to share data concerning the migration status of migrants with immigration authorities, and rather focus on labour exploitation committed by employers.**

102. **Effectively implement employer sanctions and ensure that all abuses, including ill-treatment and exploitation are investigated and properly sanctioned where appropriate. Every employer and recruitment agent who engages in fraud or deception or is responsible for any other form of exploitation of migrant workers should be brought promptly to justice, including through criminal prosecutions, and be prevented from employing/recruiting migrant workers in the future.**

103. **Implement "firewalls" between immigration enforcement and public services such as police, health care and education, in order to make sure that irregular migrant workers enjoy their civil, economic, social and cultural rights without fear of being identified, arrested, detained and deported.**

104. **Train judges, lawyers, law enforcement and immigration enforcement officers and ensure their sensitivity to the human rights of migrants, whatever their status, and the dignity owed to them.**

105. **Ensure that migrants have access to justice after returning to their home country, including the possibility to claim unpaid wages.**

106. **Empower migrants, whatever their status, to defend their own human rights without fear of retribution, provide them with appropriate normative, institutional and programmatic tools in that regard, and support them in their fight against abuse and exploitation.**